

## James G. Dahlgren, M.D.

*Diplomate of the American Board of Internal Medicine  
Occupational and Environmental Medicine; Toxicology; Disability Management  
2811 Wilshire Boulevard, Suite 510, Santa Monica, California 90403  
Phone: 310-449-5525 Fax: 310-449-5526 email: [dahlgren@envirotoxicology.com](mailto:dahlgren@envirotoxicology.com)*

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Name: David Hill  
ID Number: S0005  
Date of Interview: 10/24/2004  
Date of Birth: 03/27/1947  
Date of Death: July 2004  
Date of supplemental report 03/12/2009

### To Whom It May Concern:

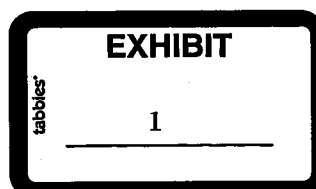
I have reviewed the reports of Dr. Rosenfeld that document very high levels of dioxin in the blood of the people living in the neighborhood where Mr. Hill lived. He also documented very high blood dioxin levels in other residents living next to creosote pentachlorophenol wood treatment plants.

I have reviewed the reports of Dr. O'Conner and 3TM that document very high levels of dioxin and PAHs in the homes of people living in the neighborhood inhabited by David Hill.

I have also reviewed the article from Dr. Cooper that indicates that pentachlorophenol should be considered a cause of cancer in humans separate from the contamination by dioxins. Dr. Gallego reported that benzene vapor is present at levels above the acceptable occupational exposure levels (i.e. over 1 PPM) in the air from creosote treated wood in the open fields after it has been treated with creosote. Dr. Heikkila has reported that polynuclear aromatic compounds (PNAC) make up about 1/3 of the creosote mixtures. This finding of PNACs is important because these chemicals are direct acting, nitrosamine, human carcinogens. Dr. Bos has demonstrated that creosote vapor without the heavier PAHs is mutagenic. I have documented PAH-adducts, pentachlorophenol and dioxin levels are increased in the blood of people living near the wood treatment plant in Grenada. I have completed another study of residents living next to another wood treatment plant have a highly significant prevalence of cancer, especially gastrointestinal cancer like we have here with Mr. Hill.

Coal tar, dioxin and benzene are class one human carcinogens. Creosote and pentachlorophenol are class 2A probable human carcinogens.

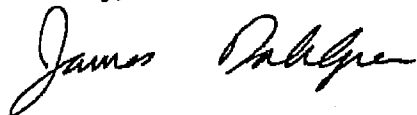
These findings are supportive of my opinion expressed in my earlier report. This additional data document and further supports the other data that I reviewed gathered and



relied upon to reach the opinion on causation in David Hill's case. His working in the tie and residential exposure to the coal tar creosote, pentachlorophenol and benzene vapor has contributed significantly to his cancer. His exposure to Polycyclic Aromatic Hydrocarbons (PAHs) and polynuclear aromatic compounds (PNAC) from coal tar creosote and dioxins present in particulates emanating from the plant have contributed significantly to his cancer. There is no doubt that this man developed his cancer from the exposures from the Kopper's wood treatment in Grenada, Mississippi. There was an increase in risk from his cigarette smoking but the level of carcinogenic agents was far greater from the plant than from his cigarette smoking. The dose from the plant was 100s of times higher than from cigarettes. I have reviewed the deposition of a fellow worker who indicates that Mr. Hill used a mask and was careful not to be exposed to chemicals at his work. I have not seen any evidence, which would allow me to conclude that there is any contribution from his working at the country club.

If there are additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Dahlgren".

James Dahlgren, MD  
Assistant Clinical Professor of Medicine  
University of California, Los Angeles



CHRIS SHAPLEY

E-mail: cshapley@brunini.com  
Direct: 601.960.6875

The Pinnacle Building, Suite 100  
190 East Capitol Street  
Jackson, Mississippi 39201  
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Post Office Drawer 119  
Jackson, Mississippi 39205  
Facsimile: 601.960.6902

April 28, 2009

Hunter W. Lundy, Esq.  
Lundy, Lundy, Soileau & South, LLP  
P.O. Box 3010  
Lake Charles, LA 70602

VIA EMAIL & U. S. MAIL

**RE: *Fred Beck, et al. v. Koppers Industries, Inc.,***  
In the United States District Court for the Northern  
District of Mississippi, Western Division,  
Civil Action No. 3:03CV60-P-D

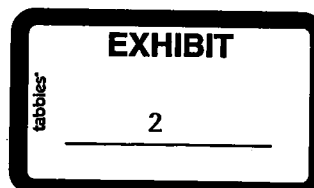
Dear Hunter:

After we returned from Florida, I focused my attention on Dr. Dahlgren's report of March 12, 2006. In my view, this report does not provide the information required by FRCP 26 and is grossly deficient in numerous respects. The supplemental report is a generic, conclusory one and a half page letter which does not provide the bases and reasons for the opinions stated in the letter. Just by way of example, Dahlgren states that the "dose from the plant was 100s of times higher than from cigarettes," but offers no reason or basis or explanation for this opinion. Rule 26 requires Dahlgren to provide us with a complete statement of all opinions in this supplemental report, along with the specific bases and reasons for each opinion.

In addition, this report contains general references to some articles by the last name of an author, with no further citation or explanation. There are also vague references to articles or papers with no identification or citation at all. As you know, we have also requested on multiple occasions a copy of Dahlgren's complete file and the data and information considered by Dahlgren in forming his opinions. You stated in your April 9 cover letter that accompanied other experts' back-up data that you would provide Dahlgren's complete file and data when you receive same, but we still have not received this information. Finally, Dahlgren's report does not provide an updated CV, updated list of publications authored or an updated list of trial and deposition testimony.

We are entitled to a full and complete report that complies with Rule 26 prior to taking Dahlgren's deposition. Since we may have a dispute concerning the sufficiency of Dahlgren's report, we will cancel and postpone the Dahlgren deposition scheduled for May 20 and the Rosenfeld deposition scheduled for May 21 until this issue is resolved.

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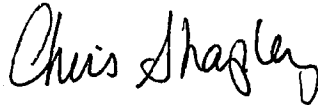
Hunter W. Lundy, Esq.  
April 28, 2009  
Page 2

By May 4, 2009, please advise whether you intend to correct the deficiencies in Dahlgren's report and disclosure; and by May 11, please provide a full and complete report and produce all information required by Rule 26. If you need some leeway on those dates, let me know. If you do not intend to correct the deficiencies in Dahlgren's disclosure, please return the attached Good Faith Certificate so that we may file an appropriate motion.

Thank you for your cooperation.

Sincerely,

Brunini, Grantham, Grower & Hewes, PLLC

A handwritten signature in black ink that reads "Chris Shapley". The signature is written in a cursive, flowing style.

Chris Shapley

CAS/tj

cc: All Counsel of Record

**LUNDY, LUNDY, SOILEAU & SOUTH, L.L.P.**  
ATTORNEYS AT LAW

**HUNTER W. LUNDY**  
ATTORNEY AT LAW  
[hlundy@lundylawllp.com](mailto:hlundy@lundylawllp.com)

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Lake Charles, Louisiana  
Jackson, Mississippi  
Fayetteville, Arkansas

April 29, 2009

**VIA EMAIL and**  
**FIRST CLASS U.S. MAIL**

Mr. Christopher A. Shapley  
Brunini, Grantham, Grower & Hewes, PLLC  
P. O. Drawer 119  
Jackson, MS 39205

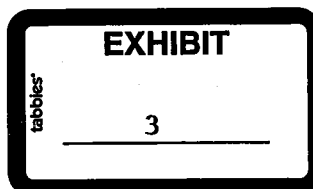
**Re: *Fred Beck, et al. v. Koppers Industries, Inc.***  
**U.S. District Court, Northern District of Mississippi**  
**Western Division, Civil Action No. 3:03CV60-P-D**

Dear Chris:

I am in receipt of your April 28, 2009 letter. In response, I anticipated Koppers and Beazer would make an effort to delay trial by the actions that you have taken - first, as to the November trial date, and now wishing to try to delay Judge Pepper's setting of February 2010 trial date.

I was disappointed in that Koppers and Beazer and Illinois Central chose to not follow procedure in deposing Dr. Sawyer last week by having, without prior notice, Tony Hopp, with the Wildman, Harrold firm in Chicago, attending deposition by closed circuit TV, which was never disclosed prior to deposition. Furthermore, when you decided you did not want closed circuit TV, or it wasn't working out, then contrary to the request of the videographer for everyone to turn off their cell phones, Tony Hopp consistently texted you and emailed you throughout the deposition with questions to ask, which were an obvious distraction to Dr. Sawyer. This conduct will not be tolerated in any future depositions. Additionally, last week, Dr. Sawyer, over my objection, was asked repeat questions, that had been asked before by Tony Hopp in the multiple depositions of Dr. Sawyer.

As to your request of Dr. Dahlgren, it appears now the defendants want to reinvent the wheel with his repeated prior testimony. Dr. Dahlgren gave reports in 2005 and 2006. He was deposed over eight (8) days (Vol. 1-8), on April 5, 2005, April 6, 2005, May 9, 2005, May 10, 2005, August 1, 2005, August 2, 2005, January 10, 2006, and May 10, 2006. All of these depositions were taken by Tony Hopp.



Mr. Christopher A. Shapley  
April 29, 2009  
Page 2

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As to your belated objection of Dr. Dahlgren's expert report of March 12, 2006, and now his supplemental report, we will not start over unless ordered by the Court.

When we met with Judge Pepper in December of 2008, he told us we were going with the same materials that he had approved for the first group of cases. He indicated if anybody wanted to supplement a report, that we could do so. We supplemented our report merely to give you the new literature that you could have that we intend to disclose. As far as your complaints in your letter of April 28, 2009, we will provide you with an updated CV. As I indicated in my letter on April 9, 2009, we are sending you all of his back-up literature for the supplemental report this week. You have all the documentation from the first report and from the eight (8) days of depositions taken by Tony Hopp.

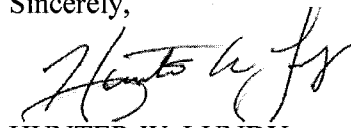
If you choose to postpone the depositions that we worked hard to obtain dates, back-to-back, with the two (2) California witnesses, you do so at your own risk. But, nevertheless, we're not going to allow the re-asking of questions that were asked in the first eight (8) days of deposition of Dr. Dahlgren if you choose to depose him.

If you, instead of Tony Hopp, intend to take Dr. Dahlgren's deposition, unless ordered by the Court, we will not allow the same distractions as in Dr. Sawyer's deposition. I am sorry, but I do not agree with the tactics of delay, disingenuousness and gamesmanship of Koppers and Beazer.

While it may not be necessary, I have enclosed the executed good faith certificate as it is our obligation so to do under the rules.

With kindest personal regards, I remain

Sincerely,



HUNTER W. LUNDY

HWL/cp  
Enclosure  
cc: All Counsel of Record

FORM 5 (ND/SD Miss. Dec. 2000)

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

FRED BECK, ET AL.

Plaintiffs

vs.

CIVIL ACTION No. 3:03CV60PD

KOPPERS INDUSTRIES, INC., ET AL

Defendants

**GOOD FAITH CERTIFICATE**

All counsel certify that they have conferred in good faith to resolve the issues in question and that it is necessary to file the following motion:

**Motion to Strike Expert Witness Designation or, In the Alternative, To Compel**

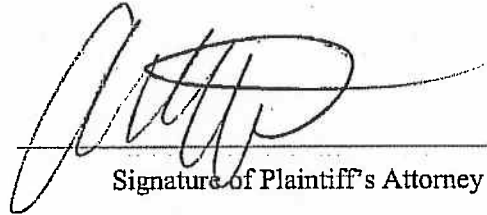
Counsel further certify that:

☒ as appropriate:

1. The motion is unopposed by all parties.
- \_\_\_\_\_ 2. The motion is unopposed by:
- X 3. The motion is opposed by: Plaintiff
- \_\_\_\_\_ X 4. The parties agree that replies and rebuttals to the motion shall be submitted to the magistrate judge in accordance with the time limitations stated in Uniform Local Rule 7.2

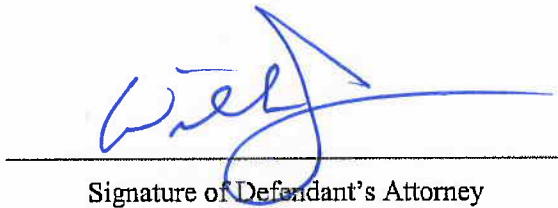
FORM 5 (ND/SD Miss. Dec. 2000)

This the 29 day of ~~May~~ April 2009.



Signature of Plaintiff's Attorney

Andre F. Ducote 10118  
Print Name and Bar Number



Signature of Defendant's Attorney

William Trey Jones III (MSB No. 99185)  
Typed Name and Bar Number



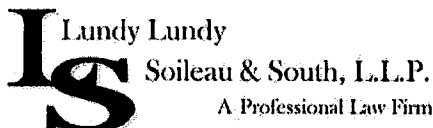
**From:** Chris Shapley  
**Sent:** Thursday, April 30, 2009 9:47 AM  
**To:** 'Clare Prejean'; Andre Ducote; Bub Theunissen; Cal Burnton; Frank Thackston; Glenn Beckham; Harris Powers; Hunter Lundy; Jay Gore; Jay Hughes; jhdiii@suddenlinkmail.com; Reuben Anderson; Trey Jones; Wilbur Colom  
**Subject:** RE: Beck v. Koppers

Hunter, with reference to your letter, the only reason I want to depose Dr Dehlgren is that he raises new issues in his supplemental report. If you will withdraw it, we will agree not to depose him, but it is our position that unless he addresses all issues in his reports in a manner that complies with Rule 26, he should not be allowed to testify to those issues on the witness stand. So it is really up to you. If you want Dr Dahlgren to be able to say that Hill's exposure to the plant was 100's of time more harmful to him than cigarettes, we want all the information required by Rule 26 that would permit him to offer that opinion. He did not say that before in his original report, so that is a new opinion. There are other new issues raised in his March 12 Report, but I think you get our point. Let me know what you want to do. If you don't withdraw his new opinion, we will file a motion. Thanks

Chris Shapley  
Brunini, Grantham, Grower & Hewes, PLLC  
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Jackson, Mississippi 39205  
The Pinnacle Building, Suite 100  
190 East Capitol Street (39201)  
(601) 960-6875 - Telephone  
(601) 960-6902 - Facsimile  
cshapley@brunini.com - E-mail  
www.brunini.com

**From:** Clare Prejean [mailto:cprejean@lundyawlp.com]  
**Sent:** Wednesday, April 29, 2009 4:34 PM  
**To:** Andre Ducote; Bub Theunissen; Cal Burnton; Chris Shapley; Frank Thackston; Glenn Beckham; Harris Powers; Hunter Lundy; Jay Gore; Jay Hughes; jhdiii@suddenlinkmail.com; Reuben Anderson; Trey Jones; Wilbur Colom  
**Subject:** Beck v. Koppers

Please find correspondence from Hunter Lundy to Chris Shapley, as well as the enclosure attached hereto.



Clare Prejean  
Legal Assistant to  
HUNTER W. LUNDY

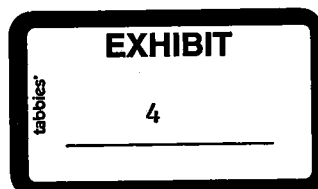
501 Broad Street  
Lake Charles, LA 70602

(337) 439-0707  
Facsimile: (337) 439-1029  
Email: cprejean@lundyawlp.com

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5/20/2009

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**From:** Hunter Lundy  
**To:** Chris Shapley; Andre Ducote  
**Sent:** Sat May 02 21:40:31 2009  
**Subject:** Re: Beck v. Koppers

Andre is trying to get you what you want

-----  
Sent using BlackBerry

----- Original Message -----

From: Chris Shapley <cshapley@brunini.com>  
To: Chris Shapley <cshapley@brunini.com>; Clare Prejean; Andre Ducote; Bub Theunissen; Cal Burnton <burnton@wildmanharrold.com>; Frank Thackston <fthackston@ltindall.com>; Glenn Beckham <jjenkins@uwbbbr.com>; Harris Powers <hpowers@uwbbbr.com>; Hunter Lundy; Jay Gore <jgore@gorekilpatrick.com>; Jay Hughes <jphjr@mac.com>; jhdiii@suddenlinkmail.com <jhdiii@suddenlinkmail.com>; Reuben Anderson <andersor@phelps.com>; Trey Jones <TJones@brunini.com>; Wilbur Colom <wil@colom.com>  
Sent: Thu Apr 30 10:29:06 2009  
Subject: RE: Beck v. Koppers

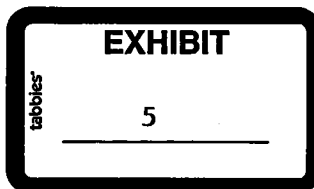
Andre did not get this. As a precaution, I am sending again

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From: Chris Shapley  
Sent: Thursday, April 30, 2009 9:47 AM  
To: 'Clare Prejean'; Andre Ducote; Bub Theunissen; Cal Burnton; Frank Thackston; Glenn Beckham; Harris Powers; Hunter Lundy; Jay Gore; Jay Hughes; jhdiii@suddenlinkmail.com; Reuben Anderson; Trey Jones; Wilbur Colom  
Subject: RE: Beck v. Koppers

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Chris Shapley  
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The Pinnacle Building, Suite 100  
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(601) 960-6902 - Facsimile



5/20/2009

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**From:** Chris Shapley  
**Sent:** Tuesday, May 05, 2009 8:20 AM  
**To:** 'Andre Ducote'  
**Cc:** Trey Jones; 'Glenn Beckham'; 'Burnton, Cal'  
**Subject:** RE: Dahlgren production

I understand. I was just not sure what the plan is. Once we get it we will review it and reschedule his deposition if we decide to take it

Chris Shapley  
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www.brunini.com

---

**From:** Andre Ducote [mailto:aducote@lundylawllp.com]  
**Sent:** Tuesday, May 05, 2009 8:16 AM  
**To:** Chris Shapley  
**Subject:** Re: Dahlgren production

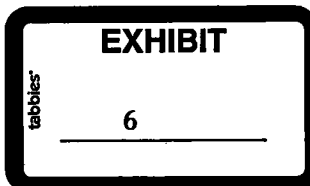
I am working on it Chris. Things are kind of out of sorts right now because of the trial in Arkansas.

----- Original Message -----

**From:** Chris Shapley <cshapley@brunini.com>  
**To:** Andre Ducote  
**Cc:** Trey Jones <TJones@brunini.com>; Burnton, Cal <Burnton@wildman.com>; Glenn Beckham <gfb@uwbbr.com>  
**Sent:** Tue May 05 08:15:40 2009  
**Subject:** RE: Dahlgren production

Thanks Andre. I am a little unclear. Will you be providing the Rule 26 information and supplementation we requested on Dahlgren's report?

Chris Shapley  
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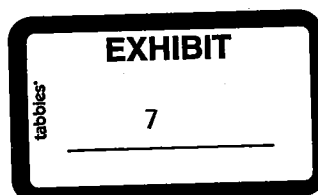
5/20/2009

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**From:** Chris Shapley  
**Sent:** Tuesday, May 12, 2009 9:43 AM  
**To:** 'Andre Ducote'; 'Hunter Lundy'  
**Cc:** Bub Theunissen; Burnton, Cal; 'Glenn Beckham'; Trey Jones  
**Subject:** Dahlgren and Rosenfeld

Andre, we had given a deadline of yesterday on our good faith effort to resolve a dispute on what we believe to be deficiencies in Dahlgren's supplemental report. I understand you are working on it, and I understand you had a sick child last week. When will I receive the supplemented report? Also, can Dahlgren and Rosenfeld be available for depositions during the week of June 15, or June 22-25?

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---

**From:** Andre Ducote [aducote@lundylawllp.com]  
**Sent:** Tuesday, May 12, 2009 10:41 AM  
**To:** Chris Shapley; Hunter Lundy  
**Cc:** Bub Theunissen; Burnton, Cal; Glenn Beckham; Trey Jones  
**Subject:** RE: Dahlgren and Rosenfeld

Chris,

I will work to get you some answers today – at least on when you will receive the supplemental report.

Andre

---

**From:** Chris Shapley [mailto:cshapley@brunini.com]  
**Sent:** Tuesday, May 12, 2009 9:43 AM  
**To:** Andre Ducote; Hunter Lundy  
**Cc:** Bub Theunissen; Burnton, Cal; Glenn Beckham; Trey Jones  
**Subject:** Dahlgren and Rosenfeld

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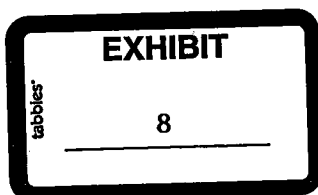
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IRS Circular 230 Notice

5/20/2009



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**From:** Chris Shapley  
**Sent:** Monday, May 18, 2009 8:15 AM  
**To:** 'Andre Ducote'; 'Hunter Lundy'; Bub Theunissen  
**Cc:** 'Glenn Beckham'; 'Burnton, Cal'; Trey Jones  
**Subject:** Dahlgren

Good morning,I know you all have been busy,but the time is running on us.I need the supplemented Dahlgren report this week if at all possible,and some dates for Dahlgren and Rosenfeld's deposition,if possible during the week of June 15,or June 22-24.Thanks

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